

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 11/10/2015	(3) CONTACT/PHONE John Diodati, Project Manager/Department Administrator (805) 788-2832	
(4) SUBJECT Submittal of a resolution calling and giving notice of the holding of special all mail ballot elections to be held on March 8, 2016, for the submission to the voters of a question relating to the formation of the Paso Robles Basin Water District (Water District) and election of the initial Board of Directors for said district; approve the Election on the Formation of the Water District Policies and Procedures; consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the question of whether the Water District should be formed; direct the County Elections Official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the elections; and adopt the procedures for the nomination of candidates for directors of the Water District as set forth in the Special Board of Directors Elections of the Proposed Paso Robles Basin Water District Candidate Information Booklet. Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Adopt the attached resolution calling and giving notice of elections on the question of the formation of the Paso Robles Basin Water District (Water District) and election of the initial Board of Directors for the Water District and fixing March 8, 2016 as the date of the all-mailed ballot elections; and 2. Approve the Election on the Formation of the Paso Robles Basin Water District Policies and Procedures and direct staff to follow the policies and procedures set forth therein in conducting the election on the question of the formation of the Water District and election of the initial Board of Directors; and 3. Consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the question of whether the Water District should be formed; and 4. Direct the County Elections Official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the election, as determined by the San Luis Obispo County Local Agency Formation Commission (LAFCO); and 5. Adopt the procedures for the nomination of candidates for directors of the Water District as set forth in the Special Board of Directors Elections of the Proposed Paso Robles Basin Water District Candidate Information Booklet. 			
(6) FUNDING SOURCE(S) San Luis Obispo County Fund 19 (Fund 1304000000)	(7) CURRENT YEAR FINANCIAL IMPACT \$314,400.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>100 min.</u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 4/21/15, #26	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

Reference: 15NOV10-BB-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

John Diodati, Project Manager/Department Administrator

Wade Horton, Director of Public Works

DATE: 11/10/2015

SUBJECT: Submittal of a resolution calling and giving notice of the holding of special all mail ballot elections to be held on March 8, 2016, for the submission to the voters of a question relating to the formation of the Paso Robles Basin Water District (Water District) and election of the initial Board of Directors for said district; approve the Election on the Formation of the Water District Policies and Procedures; consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the question of whether the Water District should be formed; direct the County Elections Official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the elections; and adopt the procedures for the nomination of candidates for directors of the Water District as set forth in the Special Board of Directors Elections of the Proposed Paso Robles Basin Water District Candidate Information Booklet. Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board:

1. Adopt the attached resolution calling and giving notice of elections on the question of the formation of the Paso Robles Basin Water District (Water District) and election of the initial Board of Directors for the Water District and fixing March 8, 2016 as the date of the all-mailed ballot elections; and
2. Approve the Election on the Formation of the Paso Robles Basin Water District Policies and Procedures and direct staff to follow the policies and procedures set forth therein in conducting the election on the question of the formation of the Water District and election of the initial Board of Directors; and
3. Consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the question of whether the Water District should be formed; and
4. Direct the County Elections Official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the election, as determined by the San Luis Obispo County Local Agency Formation Commission (LAFCO); and
5. Adopt the procedures for the nomination of candidates for directors of the Water District as set forth in the Special Board of Directors Elections of the Proposed Paso Robles Basin Water District Candidate Information Booklet.

DISCUSSION

Background

On January 27, 2015, the Board acting as the Board of Supervisors for the Flood Control and Water Conservation District (Flood Control District Board) directed staff to return with a resolution of application and related material within approximately ninety (90) days for the potential formation of the Water District as described in Assembly Bill 2453 (2014) (AB 2453) in the unincorporated portions of the Paso Robles Groundwater Basin (Basin).¹ The Water District, if formed, would participate on a Groundwater Sustainability Agency with other affected local agencies in compliance with the requirements of the Sustainable Groundwater Management Act of 2014 (SGMA) (Water Code §§ 10720 et seq.).

On April 21, 2015, staff returned to the Flood Control District Board with an application to the Local Agency Formation Commission (LAFCO) which the Flood Control District Board approved. Approval and submission of the application commenced LAFCO's official review process.

On August 20, 2015 and on September 17, 2015, LAFCO conducted public hearings on the formation of the Water District. At its September 17th hearing, LAFCO adopted Resolution No. 2015-05 entitled "Resolution Making Determinations and Approving the Formation of the Paso Robles Basin Water District, Sphere of Influence, and Environmental Determination" (Resolution 2015-05). Resolution 2015-05 established the boundaries of the proposed Water District and approved the formation of the Water District subject to, among other things, a successful vote on formation pursuant to Water Code Section 37905. In a letter received October 2, 2015 (LAFCO request) (Attachment A), the LAFCO Executive Officer requested that your Board call the election on the question of whether the Water District should be formed and the election on the first set of the Board of Directors, and direct the Elections Official to conduct the elections to be held within the Water District boundaries approved by LAFCO as required by Government Code Section 57000.

LAFCO Approval

Adoption of Resolution 2015-05 constitutes formal (conditional) approval of the Water District application authorized by the Flood Control District Board on April 21, 2015. In its approval, LAFCO made minor modifications to the proposal contained in the original application. LAFCO made no changes to the proposed budget, allocation of costs via the special tax, or the proposed Proposition 218 proceedings; however, LAFCO did modify the Water District boundaries and the Water District's active powers.

In regards to the boundaries, LAFCO determined that "the FUGRO boundary identified in the 2002 study is the best science available in terms of characterizing and defining the extent of the Paso Robles groundwater sub-basin in San Luis Obispo County."² This determination formed the basis for LAFCO's decision not to adopt the boundaries of the Paso Robles Area Groundwater Basin as described in the Department of Water Resources' Bulletin 118 as the Water District boundaries.

In regards to the powers of the Water District, LAFCO added a condition of approval related to the exportation of groundwater. Condition 2(C) provides as follows: "The District's powers to export,

¹ For purposes of calling the formation election, the Board is acting as the Board of Supervisors of the County (not the Flood Control District) (Government Code § 57000).

² Page 10 of the September 17, 2015 LAFCO Staff Report.

transfer, or move groundwater underlying the District outside of the District's approved boundary shall not be active and are subject to condition number six of this approval. For purposes of this condition and condition number six, "groundwater" shall have the meaning set forth in Water Code Section 37900, subdivision (A)(12)." Condition 6 further provides as follows: "If formed, the District shall be prohibited from exporting, transferring, or moving groundwater underlying the District (including groundwater pumped into an above-ground storage facility) to areas outside of the District's boundaries."

Statutory Obligation to Call Elections

Government Code Section 57000, subdivision (e)(1), requires your Board (acting as the Board of Supervisors of the County), within 45 days of receipt of the LAFCO Request described above, to direct the County Elections Official to conduct the necessary elections:

"When a board of supervisors [...] is informed by the commission that a determination has been made that requires an election, it shall, within 45 days of receipt of the notification, direct the elections official to conduct the necessary election. The board [...] shall do all of the following:

- (A) Call, provide for, and give notice of a special election or elections upon that question
- (B) Fix a date of election
- (C) Direct the elections official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the election, as determined by the commission."

If your Board fails to direct the County Elections Official to conduct the necessary elections within 45 days, the Elections Official is statutorily required to place the item on the ballot at the next established election date occurring at least 88 days after the date of the LAFCO notification to the Elections Official (Government Code § 57000(e)(2)).

In accordance with Government Code Section 57000, subdivisions (A) and (B), a resolution calling and giving notice of the necessary elections and fixing the date of the all mailed ballot elections as March 8, 2016 is attached. One of the elections that must be conducted is an election by landowners, as defined in Water Code Sections 37905 and 37913, on the question of whether the Water District should be formed and who shall fill the six (6) Board of Director seats to be voted on by landowners if the Water District is formed. A second election that must be conducted is an election by registered voters within the Water District on the question of who shall fill the three (3) Board of Director seats to be voted on by registered voters. In accordance with Government Code Section 57000, subdivision (C), staff recommendation 4 recommends that the Board direct the County Elections Official to designate precincts and polling places and to take any other action necessary to provide for the conduct and the canvass of returns of the election, as determined by LAFCO.

Policies and Procedures for the Formation Election

In order to conduct the formation election in accordance with the various applicable requirements contained within the formation election provisions of the California Water District Law (Water Code §§ 34000 et seq.), AB 2453 and the Cortese-Knox-Hertzberg Act (Government Code §§ 56000 et seq.) coordination among multiple departments is necessary. In order to facilitate this effort and provide

transparency to the stakeholders involved, County Counsel and staff from the various departments have developed a policies and procedures document for conducting the elections that addresses implementation of the various applicable statutory schemes.

This document, included as Attachment B, will be the guiding document for conducting the election on the question of whether the Water District should be formed and the election of the first set of directors. It includes policies and procedures on various subjects, such as the statutory obligation of the Board to call the elections, the interplay between overlapping provisions of the Cortese-Knox-Hertzberg Act and the California Water District Law and the allocation of votes in the landowner election on the question of whether the District should be formed and who should serve on the Board of Directors, including identification of each voter, acreage calculations and changes of ownership occurring after preparation of the tax roll. Staff is requesting that your Board approve this document.

Arguments For/Rebuttals/Impartial Analysis

Pursuant to Water Code Section 34402.2 and Government Code Section 57145, the Board of Supervisors may file a written argument for or a written argument against the proposed Water District formation. If your Board elects to submit an argument and more than one argument (on the same position) is submitted, the County Elections Official will apply the priorities set forth in Water Code Section 34402.3 and/or Government Code Section 57145.³

If your Board desires to submit an argument, the due date is December 9, 2015. If the entire Board desires to approve the text of the argument, staff would need to return to your Board by the December 8, 2015 meeting with the proposed language. In the alternative, your Board could authorize two members to draft and submit an argument. If your Board decides not to submit an argument for the measure, then the Elections Official would receive and publish arguments for the measure in accordance with the priorities in Water Code Section 34402.3 and/or Government Code Section 57145 and pursuant to the requirements set forth in Government Code Section 57146.

When an argument in favor and an argument against formation have been selected, the Elections Official will send copies of the argument in favor to the authors of the argument against and the argument against to the authors of the argument in favor (Government Code Section 57147). Thus, if you Board elects to write an argument (and the argument is selected), it will also be given the opportunity to submit a rebuttal to the contrary argument.

Due to agenda processing and scheduling, the ability of your Board to submit a rebuttal approved by the entire Board is problematic. The rebuttal is due on December 21, 2015. While your Board does meet on December 15, the staff report would need to be submitted to your Board as a corrigenda item. If your Board authorizes two members to submit an argument and a rebuttal, the timing issue would be mitigated.

Regarding the impartial analysis, both Water Code Section 34402.1 and Government Code Section 57144 clearly designate LAFCO as the entity that shall prepare the impartial analysis. LAFCO is aware of its obligation to provide such analysis.

³ As indicated in the Policies and Procedures, in the event that a conflict is identified between provisions of the California Water District Law and the Cortese-Knox-Hertzberg Act, the County Elections Official will consult with the LAFCO Executive Director in accordance with Government Code Section 56100(b) and the LAFCO Policies and Procedures.

Staff Direction

Staff is seeking adoption of the Resolution calling for the election on the question of whether the Water District should be formed and election of the first set of the Board of Directors. Additionally, staff is seeking approval of the policies and procedures for the elections, as well as guidance on your intent to submit an argument on the formation of the Water District.

Next Steps

Calling for the elections will trigger a sequence of events related to the elections. The schedules for the formation vote and board of director votes can be reviewed in Attachment C. The all-mail election will conclude on March 8, 2016, and it is anticipated staff will return to your Board on April 5, 2016 to report the results of the elections and seek direction on SGMA compliance. Direction will be dependent on the outcomes of the formation vote, as well as a funding vote scheduled to occur on the same date.

The County Clerk has prepared a document which outlines key dates and deadlines for the board of director elections, and is included as Attachment D. Additionally, they have prepared a candidate guide, for individuals considering seeking office, which is included as Attachment E and for which staff is seeking approval in accordance with Water Code Section 34403.

OTHER AGENCY INVOLVEMENT/IMPACT

Other agencies that have worked on the Water District formation project are as follows:

County Clerk, County Assessor, County Counsel, Agricultural Commissioner's Office and the Paso Basin Advisory Committee.

FINANCIAL CONSIDERATIONS

\$314,400 from Flood Control District reserves has been allocated to Flood Control Fund 19 to fund the application process through this fiscal year.

RESULTS

Approval of the recommended action will allow the qualified electorate as described in AB 2453 within the Water District boundaries to decide if they support the formation of the Water District and who should serve on the Board of Directors.

File: 340.280.01

Reference: 15NOV10-BB-1

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ATTACHMENTS

- A. LAFCO Letter Requesting Election Proceedings
- B. Election on the formation of the Paso Robles Basin Water District – Policies and Procedures
- C. Formation Election Schedule
- D. Key Dates and Deadlines for Board of Director Candidates

E. Candidate Guide

Resolution of the County of San Luis Obispo County, California, Calling and Giving Notice of the Holding of Special All Mailed Ballot Elections Related to the Formation of the Paso Robles Basin Water District and Election of the Board of Directors